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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,941	10/30/2003	Klaus-Dieter Hammer	22135-00017-US	6279

59554 7590 12/08/2006

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EXAMINER

O HERN, BRENT T

ART UNIT PAPER NUMBER

1772

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,941

Applicant(s)

HAMMER ET AL.

Examiner

Brent T. O'Hern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claims

1. Claims 1-4 and 6-19 are pending with claim 5 cancelled and claim 14 nonelected.

WITHDRAWN OBJECTIONS

2. The objection to claim #19 in the Office Action mailed 4 August 2006, page 2, paragraph 2 has been withdrawn due to Applicant's amendments in the Paper filed 6 November 2006.

WITHDRAWN REJECTIONS

3. The 35 U.S.C. 112, second paragraph rejections of claims 6-7 and 16 of record in the Office Action mailed 4 August 2006, page 2, paragraph 3 have been withdrawn due to Applicant's amendments in the Paper filed 6 November 2006.
4. The 35 U.S.C. 102(b) rejections of claims 1-7, 10-12 and 19 as being anticipated by Hammer et al. (US 5,501,886) of record in the Office Action mailed 4 August 2006, page 3, paragraph 4 have been withdrawn due to Applicant's amendments in the Paper filed 6 November 2006.
5. The 35 U.S.C. 103(a) rejections of claim 16 as being unpatentable over Hammer et al. (US 5,501,886) in view of Crevasse (US 5,215,495) of record in the Office Action mailed 4 August 2006, page 5, paragraph 5 have been withdrawn due to Applicant's amendments in the Paper filed 6 November 2006.

REPEATED REJECTIONS

6. The 35 U.S.C. 112 rejections of claim 12 are repeated for the reasons of record in the Office Action mailed 4 August 2006, page 2, paragraph 3. Applicant did not respond to the rejection of claim 12 in Applicant's Paper filed 6 November 2006.
7. The 35 U.S.C. 102(b) rejections of claims 8-9, 15 and 17-18 as being anticipated by Hammer et al. (US 5,501,886) are repeated for the reasons of record in the Office Action mailed 4 August 2006, page 3, paragraph 4.
8. The 35 U.S.C. 103(a) rejections of claim 13 as being obvious over Hammer et al. (US 5,501,886) are repeated for the reasons of record in the Office Action mailed 4 August 2006, page 5, paragraph 5.

NEW OBJECTIONS

9. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Amended claim 10 is identical to claim 9.

NEW REJECTIONS

10. Claims 1-4, 6-7, 10-12 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammer et al. (US 5,501,886).

Regarding claims 1 and 12, Hammer ('886) teaches a seamless tubular food casing comprising at least one copolymer comprising units of vinylpyrrolidone and units of at least one comonomer (*See Abs., ll. 1-6 and col. 5, l. 23-50.*), the comonomer being

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an α , β -ethylenically unsaturated carboxylic acid (*See col. 5, ll. 23-55 and col. 8, ll. 15-28, specifically ll. 51-55 wherein the preferred monomers are α , β -ethylenically unsaturated carboxylic acid.*).

Regarding claims 2-4, Hammer ('886) teaches a casing wherein the weight ratio of the copolymer to cellulose is from 1:25 to 10:1, which equates to 10-96% for claim #2/(1:5 to 5:1, which equates to 17-83% for claim #3)/(1:4 to 4:1, which equates to 20-80% for claim #4) (*See col. 6, ll. 37-51 wherein Hammer's ('886) from 0.1 to 100% as specifically stated in l. 46 clearly falls within all of the above claimed proportions, with corresponding percentage equivalents.*).

Regarding claims 6-7, Hammer ('886) teaches a casing wherein the proportion of comonomer units is less than 50 mol %/(30 mol %) based on the molar weight of all comonomer units in the copolymer (*See col. 6, ll. 29-51 and ll. 8-10, specifically l. 46 wherein the weight % is as low as 0.1% for a mean molecular weight from 500,000-1,500,000 is clearly less than 30%/50%.*).

Regarding claim 10, Hammer ('886) teaches a casing wherein the fiber reinforcement comprises a hemp fiber paper (*See col. 10, l. 66 to col. 11, l. 16.*).

Regarding claim 11, Hammer ('886) teaches a casing wherein the copolymer is admixture with the cellulose hydrate comprises a layer on the outside of the fiber reinforcement (*See col. 10, l. 66 to col. 11, l. 16 wherein the hemp is coated with the cellulose hydrate and col. 4, ll. 23-67 and col. 2, ll. 51-64 wherein the cellulose hydrate is disclosed.*)

Regarding claim 19, Hammer ('886) teaches a casing wherein the additive comprises a polyvinylpyrrolidone (*See Abs., ll. 1-6.*).

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Crevasse (US 5,215,495).

Regarding claim 16, Hammer ('886) teaches the casing discussed above, however, fails to expressly disclose a sausage comprising a food casing.

However, Crevasse ('495) teaches a dry sausage comprising a food casing (*Abs., l. 2*) for the purpose of providing encased sausage with long shelf life (*col. 4, ll. 65-68*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify Hammer's ('886) casing with encased sausage as taught by Crevasse ('495) in order to provide encased sausage having a long shelf life.

ANSWERS TO APPLICANT'S ARGUMENTS

12. In response to Applicant's argument (*p. 6, para. 3 of Applicant's Paper filed 6 November 2006*) that Hammer's ('886) material must contain amino- or ammonium groups, it is noted that patentability of Applicant's invention is not based on additional teachings of Hammer ('886) but rather on the claimed limitations of Applicant's product. Thus, Applicant's arguments are not germane to any issue at bar.

13. In response to Applicant's argument (*p. 6, para. 3 of Applicant's Paper filed 6 November 2006*) that Hammer's ('886) copolymers do not teach or suggest the claimed food casing, it is noted that Hammer ('886) teaches a seamless tubular food casing

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comprising at least one copolymer comprising units of vinylpyrrolidone and units of at least one comonomer (*See Abs., ll. 1-6 and col. 5, l. 23-50.*), the comonomer being an α , β -ethylenically unsaturated carboxylic acid (*See col. 5, ll. 23-55 and col. 8, ll. 15-28.*).

14. In response to Applicant's argument (*p. 6, paras. 4-5 of Applicant's Paper filed 6 November 2006*) that Hammer ('886) teaches esters not unsaturated carboxylic acid/comonomer units, it is noted that Hammer ('886) does teach unsaturated carboxylic acid (*See col. 5, ll. 23-55 and col. 8, ll. 15-28, specifically ll. 51-55 wherein the preferred monomers are α , β -ethylenically unsaturated carboxylic acids*).

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

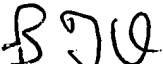
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Brent T O'Hern
Examiner
Art Unit 1772
November 25, 2006


NASSER AHMAD
PRIMARY EXAMINER
12/1/06